

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DANA GROTANO, N.D., A.R. and D.M.
*Individually and on behalf of all others similarly
situated,*

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.
-----X

15 CV 9242 (RMB)(KNF)

**Deft. Graham's Answer to
the Third Amended Complaint
With Cross-Claims**

Defendant **C.O. THOMASENA GRAHAM** (öDefendantö) by her attorneys, **KOEHLER & ISAACS LLP**, as and for an Answer with Cross-Claims to the Third Amended Complaint sets forth, upon information and belief, as follows:

AS AND FOR A RESPONSE TO THE INTRODUCTION

1. Defendant denies the legal conclusion set forth in paragraph "1" of the Third Amended Complaint and refers all questions of law to this Honorable Court.
2. Defendant denies the legal conclusions set forth in paragraph ö2ö of the Third Amended Complaint and refers all questions of law to this Honorable Court.
3. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph ö3ö of the Third Amended Complaint and refers al questions of law to this Honorable Court.
4. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph ö4ö of the Third Amended Complaint and refers all questions of law to this Honorable Court.

5. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

6. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

7. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

8. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Third Amended Complaint as it relates to plaintiff Grottanos actions, denies engaging in wrongdoing as it relates to the search and refers all questions of law to this Honorable Court.

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

10. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

11. Defendant denies the legal conclusions set forth in paragraph 11 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

12. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Third Amended Complaint and refers all questions

of law to this Honorable Court.

13. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

14. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

15. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

16. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

17. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

18. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

19. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

20. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

22. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

23. The allegations set forth in paragraph 23 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

24. The allegations set forth in paragraph 24 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

RESPONSE TO JURISDICTION AND VENUE

25. The allegations contained in paragraph 25 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

26. The allegations contained in paragraph 26 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

27. The allegations contained in paragraph 27 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

AS AND FOR A RESPONSE TO PARTIES

28. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

29. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

30. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

31. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

32. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Third Amended Complaint, refers all questions of law to this Honorable Court but admits the Defendant City is a municipality.

33. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Third Amended Complaint, refers all questions of law to this Honorable Court but admits Defendant Ponte is the DOC Commissioner.

34. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

35. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "35" of the Third Amended Complaint and refers all questions of law to this Honorable Court.

36. Defendant denies in the form alleged the allegations contained in paragraph "36" of the Third Amended Complaint, refers all questions of law to this Honorable Court but admits she worked as a correction officer at all times relevant to the Third Amended Complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "37" of the Third Amended Complaint and refers all questions of law to this Honorable Court.

AS AND FOR A RESPONSE TO CLASS ALLEGATIONS

38. The allegations contained in paragraph "38" of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

39. The allegations contained in paragraph "39" of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

40. The allegations contained in paragraph "40" of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

41. The allegations contained in paragraph "41" of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

42. The allegations contained in paragraph "42" of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

43. Defendant denies the legal conclusion set forth in paragraph "43" of the Third Amended Complaint and refers all questions of law to this Honorable Court.

44. The allegations contained in paragraph 44 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

45. The allegations contained in paragraph 45 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

AS AND FOR A RESPONSE TO FACTS

46. The allegations contained in paragraph 46 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

47. Defendant denies the legal conclusion contained in paragraph 47 of the Third Amended Complaint and refers any questions of law to this Honorable Court.

48. Defendant denies the legal conclusion contained in paragraph 48 of the Third Amended Complaint and refers any questions of law to this Honorable Court.

49. Defendant denies the legal conclusion contained in paragraph 49 of the Third Amended Complaint and refers any questions of law to this Honorable Court.

50. Defendant denies the legal conclusion set forth in paragraph 50 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

51. Defendant denies the legal conclusion set forth in paragraph 51 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

Response to Plaintiff Grottano's Experience

52. Defendant denies the legal conclusion contained in paragraph 52 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

53. The allegations contained in paragraph 53 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

54. The allegations contained in paragraph 54 of the Third Amended Complaint do not require a response from the Defendant and all questions of law are referred to this Honorable Court.

55. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

56. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

57. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

58. Defendant denies the allegations contained in paragraph 58 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

59. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

60. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

61. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

62. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

63. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

64. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

65. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Third Amended Complaint and refers all questions law to this Honorable Court.

66. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the Third Amended Complaint and refers all questions law to this Honorable Court.

67. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

68. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

69. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Third Amended Complaint and refers all

questions of law to this Honorable Court.

70. Defendant denies the legal conclusion set forth in paragraph 70 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

71. Defendant denies the legal conclusion set forth in paragraph 71 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

Response to N.D.'s Experience

72. Defendant denies the legal conclusion contained in paragraph 72 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

73. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

74. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

75. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

76. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

77. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

78. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

79. Defendant denies the legal conclusion contained in paragraph 79 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

Response to A.R.'s Experience

80. Defendant denies the legal conclusion contained in paragraph 80 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

81. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

82. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

83. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

84. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

85. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

86. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

87. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

88. The allegations set forth in paragraph 88 of the Third Amended Complaint do not require a response from the Defendant.

89. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

90. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

91. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

92. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

93. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

94. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

95. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

96. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

97. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

98. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

99. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 99 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

100. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

101. Defendant denies the legal conclusion contained in paragraph 101 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

Response to D.M.'s Experience

102. Defendant denies the legal conclusion contained in paragraph 102 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

103. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

104. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

105. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

106. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

107. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

108. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

109. Defendant denies the allegations contained in paragraph 109 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

110. Defendant denies the allegations contained in paragraph 110 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

111. Defendant denies the allegations contained in paragraph 111 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

112. Defendant denies the allegations contained in paragraph 112 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

113. Defendant denies the allegations contained in paragraph 113 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

114. Defendant denies the allegations contained in paragraph 114 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

115. Defendant denies the allegations contained in paragraph 115 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

116. Defendant denies the legal conclusions contained in paragraph 116 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

117. Defendant denies the legal conclusion contained in paragraph 117 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

AS AND FOR A RESPONSE TO FIRST CAUSE OF ACTION
(Section 1983- Fourth & Fourteenth Violations)

118. Defendant repeats, reiterates and re-alleges the responses to the allegations set forth in paragraphs 1 through 17 above with the same force and effect as if fully set forth herein.

119. Defendant denies the allegations contained in paragraph 119 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

120. Defendant denies the allegations contained in paragraph 120 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

121. Defendant denies the allegations contained in paragraph 121 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

122. Defendant denies the allegations contained in paragraph 122 of the Third Amended Complaint and refers all questions of law to this Honorable Court.

AS AND FOR A RESPONSE TO SECOND CAUSE OF ACTION
(NYS Constitution)

123. Defendant repeats, reiterates and re-alleges the responses to the allegations set forth in paragraphs 1 through 122 above with the same force and effect as if fully set forth herein.

124. Defendant denies the allegations contained in paragraph 124 and refers all questions of law to this Honorable Court.

125. Defendant denies the allegations contained in paragraph 125 and refers all questions of law to this Honorable Court.

AS AND FOR A RESPONSE TO IRREPARABLE HARM

126. Defendant denies the legal conclusion contained in paragraph 126 and refers all questions of law to this Honorable Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Third Amended Complaint fails to state a cause of action upon which relief may be granted against the Defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

The Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to punitive damages under the circumstances of this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Defendant is entitled to any setoff applicable under the circumstances of this action.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Defendant is entitled to immunity as she, at all times relevant to the Third Amended Complaint, reasonably, properly and lawfully exercised her discretion as a public employee.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiffs failed to satisfy mandatory conditions precedent to the instant action including but without limitation, those established under Sections 50-e, 50-h and 50-i of the New York General Municipal Law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

Defendant reserves the right to amend and/or supplement these affirmative defenses during the course of this litigation.

**FIRST CROSS-CLAIM AGAINST
DEFENDANT CITY OF NEW YORK**

127. At all times relevant in this action, all of the actions of the Defendant were performed as part of her duties and within the scope of her employment and the rules and regulations as a Correction Officer for the New York City Department of Correction.

128. Any damages sustained by the plaintiffs at the time or place mentioned in the Third Amended Complaint are embraced within the indemnification clause of Section 50-k of the New York State General Municipal Law.

129. Section 50-k(3) of the New York State General Municipal Law states:

The city shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim approved by the corporation counsel and the comptroller, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment and in the discharge of his duties and was not in violation of any rule or regulation of his agency at the time the alleged damages were sustained; the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee

130. Pursuant to 50-k(3), if it is shown that the Defendant is in any way liable to the plaintiffs based upon on the allegations in the Third Amended Complaint, the Defendant is entitled to recover from the City of New York the full amount of any judgment which might be rendered against the Defendant.

**SECOND CROSS-CLAIM AGAINST
DEFENDANT CITY OF NEW YORK**

131. Defendant repeats, reiterates and re-alleges the allegations set forth in paragraphs 127 through 130 with the same force and effect as if fully set forth herein.

132. Defendant has denied the material allegations asserted against her in the underlying action and has asserted affirmative defenses.

133. If the plaintiffs sustained injuries and damages as alleged in the Third Amended Complaint, such injuries and damages were sustained by reason of negligence by the Defendant City of New York, its agents, servants and/or employees.

134. Therefore, if the injuries and damages alleged in the Third Amended Complaint were caused as a result of negligence or wrongdoing other than by the plaintiffs' own culpable conduct, then such damage is a result of the knowing, reckless and/or grossly negligent acts and omissions of the Defendant City of New York and its supervisory officials.

135. Consequently, if it is shown that the Defendant is in any way liable to the plaintiffs based upon the allegations in the Third Amended Complaint, Defendant is entitled to recover from the City of New York the full amount of any judgment that might be rendered against the Defendant.

WHEREFORE, Defendant **C.O. THOMASENA GRAHAM** demands:

- (a) Judgment dismissing the Third Amended Complaint in its entirety;
- (b) Judgment on each of her cross-claims against the Defendant City of New York for the amount of any judgment that may be obtained herein by the plaintiffs against the Defendant, or in an amount equal to the excess over and above his equitable share of any such judgment and
- (c) Together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 24, 2016

Respectfully Submitted,

KOEHLER & ISAACS LLP

____/s/ Julie A. Ortiz_____
Julie A. Ortiz (JR-1817)
Attorneys for Defendant: Graham
61 Broadway, 25th Floor
New York, New York 10006
(917) 551-1300

To: ***Via ECF & Regular Mail***
Giskan Solotaroff Anderson & Stewart LLP
Attorneys for Plaintiff
11 Broadway
New York, New York 10004
Attn: Raymond Audain, Esq.
(212) 847-8315

Via ECF & Regular Mail
New York City Law Department
Attorneys for Defts: City of NY & Ponte
100 Church Street
New York, New York 10007
(212) 356-2654
Attn: Michael Gertzer, Esq.

CERTIFICATE OF SERVICE

I certify that on May 24, 2016 I have served a copy of **Defendant Graham's Answer with Cross-Claims to the Third Amended Complaint** upon all counsel as follows:

Via ECF & Regular Mail

Giskan Solotaroff Anderson & Stewart LLP
Attorneys for Plaintiff
11 Broadway
New York, New York 10004
Attn: Raymond Audain, Esq.
(212) 847-8315

Via ECF & Regular Mail

New York City Law Department
Attorneys for Defts: City of NY & Ponte
100 Church Street
New York, New York 10007
(212) 356-2654
Attn: Michael Gertzer, Esq.

Dated: New York, New York
May 24, 2016

____/s/ *Julie A. Ortiz*_____
Julie A. Ortiz (JR-1817)